



MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: James Newman, Zoning Administrator
SUBJECT: Sidewalk Cafes
DATE: August 10, 2021 (for the August 10 Council Meeting)

ISSUE

Update on Sidewalk Cafes and policies.



DEFINITION

As stated in the *City Council Policies and Procedures Manual*, Sidewalk Cafes are an outdoor or semi-enclosed dining area directly adjoining and part of a restaurant within the City and located on a public sidewalk, alley, or right-of-way where customers of the restaurant sit and dine.

LICENSE

The City administers sidewalk cafes using a sidewalk café license. There is no application fee. The Zoning Administrator manages the sidewalk café program.

REQUIREMENTS

Sidewalk cafes have four main requirements:

1. Maintain a four-foot clear path between the café and any impediments, such as street lights, trees, trash cans, signs, etc. Along the path there must be a 5 ft x 5 ft open space every 200 feet.
2. Have a minimum general liability insurance coverage for personal injury and property damage in the amount of \$1 million per occurrence and \$1 million aggregate, with the City of Fredericksburg named as additional insured.
3. Remove all moveable equipment at close of business each night. Cafes must close by 12am midnight.
4. Submit a new license application annually. While the onus is on the business owner to renew the license, staff sends a general reminder at the start of the calendar year.

REVOCATION

The Zoning Administrator is enabled to suspend or revoke a license that fails to come into compliance. In the event of an emergency, the Zoning Administrator, Director of Public Works, Chief of Police, or Fire Marshal have the authority to require the immediate suspension of a sidewalk café license.

COVID-19 REGULATIONS

During the COVID-19 Pandemic, there were requests for outdoor seating areas to be located in parking lots, or outdoor seating to be covered by tents, or to have outdoor seating with portable heaters, and other anomalous requests. These were handled and reviewed in accordance with City regulations. For example, parking lots could be converted to outdoor seating provided that the required amount of parking and adequate handicapped spaces were provided. Outdoor heaters were reviewed by the Fire Department. Tents and other enclosures were permitted as long as at least four feet of space was given to passing pedestrians.

VIOLATIONS

From January 1, 2021 to July 29, 2021, notice has been given to five different businesses that were in violation of sidewalk café requirements. All have come into compliance. Notice has been given both in person and via letters. One license was suspended due an emergency (lapse in insurance coverage), and was then granted back after the insurance was restored.

STAFF VISITS

On July 21st at 10:45am, the Zoning Administer and the Planning and Building Director met with two members of the disAbility Resource Center of the Rappahannock Area Inc.: Advocacy Director Deborah Lately and Community Integration Specialist Kelly Keiser.

The group walked down William Street, Caroline Street, and Princess Anne Street, past multiple sidewalk cafes. It was noted that two restaurants that had previous violations (Mellow Mushroom and La Petite Auberge) had taken corrective actions and were in compliance. One business, Fahrenheit 132, was found to not be in compliance with the four-foot clear path standard. A notice was sent and the issue was corrected.

The disAbility Resource Center representatives were asked by planning staff if there were issues with the brick sidewalks and rubberized mulch tree-well filler material. Generally, they said bricks pavers and rubberized mulch were considered acceptable for wheelchairs and motorized scooters. However, it was noted that there were six locations with missing/damaged bricks. The representative provided a list and the issues have been corrected.

On August 4, 2021, Ms. Lately sent Planning staff her report, which is attached. Her report includes specific addresses where there are missing/damaged bricks. It also raises concerns about rubberized mulch (which she refers to as Porous Pave). She recommends PolyGrate plastic tree grates instead of the rubberized mulch component. This recommendation has been sent to Public Works for their consideration.

CONCLUSION

Violations are either reported to staff by citizens or noticed by staff when walking around downtown. All known violations have been rectified. The regulations ensure adequate passage for citizens, and the disAbility Resource Center staff appreciated the care and attention the City is focusing on this issue. Planning Staff will work with the disAbility Resource Center and do additional on-site reviews on twice-yearly basis.

Attachment: disAbility Resource Center report dated July 30, 2021



disAbility Resource Center of the Rappahannock Area, Inc.
409 Progress St., Fredericksburg, Virginia 22401
540-373-2559 (voice), 540-373-5890 (CAPTEL), 540-373-8126 (fax)
www.cildrc.org, drc@cildrc.org

TO: Matthew Kelly, At-Large City Council Member, City of Fredericksburg
FROM: Deborah Lately, Director of Advocacy
DATE: July 30, 2021
SUBJECT: ADA Inspection Report

Thank you for reaching out to the disAbility Resource Center to assist with the review of downtown outdoor seating regarding the current City policy. Our mutual goal is to make the city accessible to all residents and visitors while maintaining a vibrant business district in historic Fredericksburg. It is important to note that the disAbility Resource Center has found the City of Fredericksburg is quick to respond to requests to fix sidewalks and to perform curb cut repairs.

Background: The purpose of this Americans with Disabilities Act (ADA) accessibility inspection report is to document the results of the joint review of the outdoor, downtown dining sidewalks by the City and the disAbility Resource Center. The report findings and recommendations are based on an inspection conducted on July 20, 2021. The surveyors' traversed the 700 – 800 blocks of Caroline Street and the 300 – 600 blocks of William Street. Specifically, the inspection was to confirm compliance of the City's requirement for 48" of clearance between vertical impediments to pedestrian right of way.

Surveyors:

Chuck Johnston, Director, City of Fredericksburg Community Planning & Building
James Newman, Zoning Administrator, City of Fredericksburg Community Planning & Building
Deborah Lately, Director of Advocacy, disAbility Resource Center
Kelly Keiser, Community Integration Specialist, disAbility Resource Center

Summary:

These recommendations should be considered advice, not mandates or binding guidance. The goal is to provide a safe, even surface to allow enjoyment of the downtown area by residents and visitors using mobility aids (wheelchairs, walkers, white canes, and mobility scooters.) In some areas, there is not enough Porous Pave surrounding the trees. The Porous Pave has either been damaged or settled and is no longer even with the sidewalk. If the Porous Pave is included in the measurement, the sidewalk would meet the City's requirement for 48" of clearance. However, we do not recommend including the Porous Pave in the measurement. If the Porous Pave breaks down, the ground surface will not be stable and firm. This may cause tripping and falling.

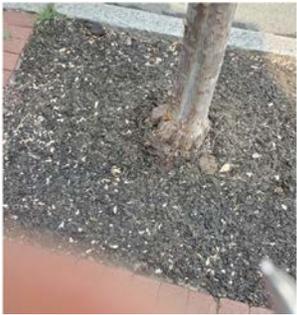
Consider installing ADA compliant PolyGrate plastic tree grates over the Porous Pave. The grates are durable, cost less than steel, and they are easy to install. This will assist in making the ground surfaces stable, firm slip resistant, and it will assist in meeting the four-foot requirement. Repair and replace loose and missing bricks. Please see "Surveyors' Path of Travel" chart attached which includes the facilities inspected.

During the July 20th inspection from 10:45 am – 12:00 pm, we did not see canopies or signage on the sidewalks. It appeared that businesses were aware the city was inspecting their facility. The inspection was announced at a City Council meeting and then reported in the *Free-Lance Star*. In the future, we recommend an unannounced inspection with no notice to the public. This will give us a true assessment of what is happening downtown.

We believe one assessment by the city and the disAbility Resource Center was a move in the right direction, but the real truth is what is happening when businesses downtown are carrying out their daily business and not aware of any inspection. A major challenge is the placement of “movable” objects put out by business owners and their employees, e.g., table and chairs, sandwich boards, dog water bowls, sales racks. These objects are randomly placed and need to be monitored for compliance on a continual basis. We appreciate your service, and the relationship that we have built with the city over the years. We look forward to continuing to build upon this collaborative relationship.

SURVEYORS' PATH OF TRAVEL

Item No.	Facility	Address	Findings/Recommendations
1.	Mellow Mushroom mellowmushroom.com	609 William St. Fredericksburg, VA 22401 540-997-3033	There were no issues at this facility. They met the 4 feet requirement.
2.	FAVOR www.favorfxbg.com	817 Caroline St. Fredericksburg, VA 22401 540-899--7655	Loose brick on sidewalk. The floor and ground surfaces should be stable, firm and slip resistant. Recommendation: The loose brick should be repaired.
3.	Skin+ Touch Therapy Spa skintouchtherapyspa.com	714 Caroline St. Fredericksburg, VA 22401 540-479-6470	Missing brick on sidewalk. The floor and ground surfaces should be stable, firm and slip resistant. Recommendation: Replace the missing brick.
4.	VENUE www.718venue.com	718 Caroline St. Fredericksburg, VA 22401 540-412-7737	Missing brick on sidewalk. The floor and ground surfaces should be stable, firm and slip resistant. Recommendation: Replace the missing brick.
5.	PONSHOP Fine Art www.ponshopstudio.com	712 Caroline St. Fredericksburg, VA 22401 540-656-2215	Missing brick on sidewalk. The floor and ground surfaces should be stable, firm and slip resistant. Recommendation: Replace the missing brick.
6.	Benny Vitali's Pizza www.bennysva.com	722 Caroline St. Fredericksburg, VA 22041 540-368-1690	Loose brick on sidewalk. The floor and ground surfaces should be stable, firm and slip resistant. Recommendation: The loose brick should be repaired.

<p>7.</p>	<p>Fork N Biscuit www.forknbiscuit.com</p>	<p>715 Caroline St. Fredericksburg, VA 22401 540-940-6800</p>	<p>Sidewalk measurement is 2 ¾ feet. This facility does not meet the 4 feet requirement. If the Porous Pave that surrounds the tree is included in the measurement, the sidewalk would meet the 4 feet minimum.</p>  <p>Recommendation: Consider installing ADA compliant PolyGrate plastic tree grates over the Porous Pave.</p> <p>PolyGrate plastic tree grate</p> 
<p>8.</p>	<p>Jus Pop'n www.juspopnfxbg.com</p>	<p>300 William St. Fredericksburg, VA 22401 540-373-5148</p>	<p>Missing brick on sidewalk. The floor and ground surfaces should be stable, firm and slip resistant.</p> <p>Recommendation: Replace the missing brick.</p>

9.	Fahrenheit www.fahrenheit132.com	318 William St Fredericksburg, VA 22401 540-940—2614	Sidewalk measurement is 3 ½ feet. This facility does not meet the 4 feet requirement. Recommendation: Consider installing ADA compliant PolyGrate plastic tree grates over the Porous Pave.
10.	Du Jardin Home and Garden dujardinhomeandgarden.com	822 Caroline St. Fredericksburg, VA 22401 540-374-1001	Loose brick on sidewalk. The floor and ground surfaces should be stable, firm and slip resistant. Recommendation: The loose brick should be repaired.
11.	Peacaloo Boutique www.peacalooboutique.com	720 Caroline St. Fredericksburg, VA 22401 540-940-2818	Tree needs Porous Pave. The floor and ground surfaces should be stable, firm and slip resistant. Recommendation: Consider installing ADA compliant recycled plastic tree grates.